

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN TO WHOM IT MAY CONCERN that on **Wednesday, June 21, 2006, at 3:00 PM at the Marathon Government Center, 2798 Overseas Highway, MM 50, Marathon, Monroe County, Florida**, the Board of County Commissioners of Monroe County, Florida, intends to consider whether to ratify, amend or repeal the following *Emergency Ordinance No. 018-2006* passed May 16, 2006:

AN EMERGENCY ORDINANCE OF MONROE COUNTY, FLORIDA, TITLED "THE EMERGENCY FIRE HAZARD ORDINANCE"; DECLARING THAT AN EMERGENCY EXISTS AND WAIVING NOTICE BY A FOUR-FIFTHS VOTE; PROVIDING FOR THE REGULATION OF BURNING THROUGHOUT MONROE COUNTY, FLORIDA, DURING THE STATE OF EMERGENCY DUE TO DRY CONDITIONS AND THREAT OF WILDFIRES; PROVIDING FOR TITLE, ENACTMENT AND AUTHORITY, FOR JURISDICTION, PURPOSE, INTENT, IMPLEMENTATION, PROHIBITIONS, EXCEPTIONS, AND PROVIDING FOR AN EFFECTIVE DATE.

Pursuant to Section 286.0105, Florida Statutes, notice is given that if a person decided to appeal any decision made by the Board with respect to any matter considered at such hearings or meetings, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Copies of the above-referenced ordinance are available for review at the various public libraries in Monroe County, Florida.

Dated at Key West, Florida, this 1st day of June, 2006.

DANNY L. KOLHAGE, Clerk of the Circuit Court
and ex officio Clerk of the Board of County
Commissioners of Monroe County, Florida

(SEAL)

Publication dates:

Reporter (Fr) 6/9/06 – 6/16/06

Keynoter (Sa) 6/10/06 – 6/17/06

KW Citizen (Su) 6/11/06 – 6/18/06

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WHEREAS, on May 9, 2006 the Governor of the State of Florida, promulgated Executive Order Number 06-108 declaring that the "ongoing danger of wildfires continues to threaten the State of Florida with a major disaster, and that, as a consequence of this danger, a state of emergency exists in the State of Florida"; and

WHEREAS, according to the National Weather Service, the dry conditions that cause the danger of wildfires cover the entire State, and likely to continue and become worse over the next ninety (90) days; and

WHEREAS, Monroe County has experienced an extended period of time without normal rainfall creating a threat of wildfires which could result in substantial damage to or loss of property; and

WHEREAS, the dry conditions have greatly affected the vegetation in the County and greatly increased susceptibility to wildfires; and

WHEREAS, the Mayor, after consultation with the Emergency Management Director has declared a local state of emergency for Monroe County; and

WHEREAS, to avoid the damage done in the event of wildfire and to lessen the extreme fire hazards which presently exist in the County, the Board of County Commissioners finds that it is in the public's best interest, health, safety, and welfare to enact this ordinance regulating burning in the County;

WHEREAS, a ban on open fires will reduce the danger and likelihood of grassfires, wildfires, and forest fires; and

WHEREAS, for the foregoing reasons the Board of County Commissioners finds and declares that an emergency exists;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, AS FOLLOWS:

SECTION I. STATE OF EMERGENCY

An emergency is hereby declared and notice waived by a four-fifths vote.

SECTION II. TITLE, ENACTMENT AND AUTHORITY

This ordinance shall be known as "The Emergency Fire Hazard Ordinance". This ordinance is adopted in accordance with and pursuant to the authority of Chapter 125 and Chapter 252 of the Florida Statutes and Monroe County Ordinance 2-15.1.

SECTION III. JURISDICTION

Pursuant to the Fla. Const. Art.VIII, Sec. 1 (f), the areas subject to this ordinance shall apply throughout Monroe County, to the extent that this ordinance does not conflict with any municipal ordinances. Any law enforcement officer with jurisdiction in the County shall have authority to enforce the terms and provisions of this ordinance.

SECTION IV. DURATION

This Emergency Ordinance shall remain in effect for seventy-five (75) days from the date of enactment unless modified, extended or rescinded by further action of the Board of County Commissioners.

SECTION V. PROHIBITIONS

It shall be unlawful for any person to set fire to or cause fire to be set to any forest, grassland, wild lands, marshes, vegetation, or land in an urban or rural area including but not limited to, pile burning, building a campfire, a bonfire, burning yard trash, burning household garbage, refuse, or other debris throughout Monroe County unless authorization is obtained from the Department of Agriculture, Division of Forestry.

SECTION VI. OTHER PROHIBITIONS

In addition to the prohibition on open burning specified in Section V of this ordinance, no person or entity may sell, give, transfer, discharge, or cause to be discharged:

- A. Fireworks, (as defined in Section 791.01, Florida Statutes);
- B. Sparklers approved by the Division of State Fire Marshal of the Department of Insurance pursuant to Section 791.013, Florida Statutes;
- C. Trick noisemakers and novelties as listed in Section 791.01(4)(c), Florida Statutes; or
- D. Flares, except that nothing herein contained shall prohibit the lawful use of marine flares pursuant to 33 CFR 175.140.
- E. The prohibition against disposal of lighted substances, pursuant to Fla. Stat, 590.10 remains in effect, and it shall remain unlawful to throw, drop, or dispose of a lighted match, cigarette, cigar, ashes, or other flaming or glowing substance, or any substance or thing which may or does cause a wildfire.

SECTION VII. EXCEPTIONS

Nothing herein contained in this ordinance shall be construed to prohibit

- 1. lawful activities involving incendiary devices, fire or flame in controlled industrial or commercial processes for which permits have been issued or if no permit is issued take place in a controlled environment such as to make it unlikely that such incendiary, flame, or heat generating device will cause any type of wildfire or be a danger outside of the premises where the procedure or process is being used;
- 2. residential outdoor cooking provided the same is done on a suitable piece of equipment designed to contain the fire, flame and heat generated thereby and provided that an operable, dedicated source of domestic water e.g. a functioning garden hose or a 10 lb. multipurpose fire extinguisher is located within reach of but no farther than fifteen (15) feet of the flame;
- 3. any other procedure or process generating heat, flame, or fire that would normally be a hazard but for the fact that a local, state, or federal government has issued a permit for such activity;

4. any duly existing or constituted fire department conducting training exercises involving open fire or flame solely for training purposes under controlled conditions; or

5. holiday fireworks displays, provided the organizers of said display have obtained all appropriate permits and approvals from the local government having jurisdiction over the site of the proposed display.

SECTION VIII. PENALTIES

Any violation by any person of any requirement or provision of this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted. Upon conviction, any person violating any requirement or provision of this ordinance shall be punished by a fine not to exceed five hundred (\$500.00) dollars or by imprisonment in the County jail not to exceed sixty (60) days or by both such fine and/or imprisonment.

SECTION IX. SEVERABILITY

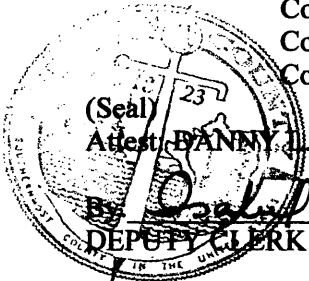
It is declared to be the intent of the Board of County Commissioners that the provisions of this ordinance are severable, and if any clause, sentence, section, or other part of this ordinance should be found to be invalid, such invalidity shall not affect the remaining provisions and the remaining provisions shall remain in full force and effect.

SECTION XI. EFFECTIVE DATE

This Ordinance shall become effective as provided by law.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at the regular meeting of the Board on the 16th day of May, 2006.

Mayor Charles "Sonny" McCoy	<u>Yes</u>
Commissioner George Neugent	<u>Yes</u>
Commissioner David P. Rice	<u>Yes</u>
Commissioner Dixie Spehar	<u>Yes</u>
Commissioner for Dist. 5	<u>Vacant</u>



Attest: DANNY L. KOLHAGE, Clerk BOARD OF COUNTY COMMISSIONERS OF

MONROE COUNTY, FLORIDA

BY: [Signature]
Mayor Charles "Sonny" McCoy

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

Natleene W. Cassel
NATILEENE W. CASSEL
ASSISTANT COUNTY ATTORNEY

Date 5/15/06

FILED FOR RECORD
2006 MAY 17 AM 9:10
DANNY L. KOLHAGE
CLK. CIR. CL.
MONROE COUNTY, FLA.